

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussions is respectfully requested.

Claims 28-45 are pending in the present application; claims 28, 30, and 32 having been amended; and, claims 34-45 having been added by way of the present amendment.

Claims 28-33 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over U.S. Patent No. 6,748,190, and claims 28-33 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kasahara et al.

In response to the double-patenting rejection based on claim1, Applicants submit herewith a Terminal Disclaimer. This Terminal Disclaimer should not be interpreted as an admission that the claims are unpatentable over U.S. 6,748,190, and the Terminal Disclaimer is being filed to more efficiently advance the prosecution of this application.

The Examiner is also directed towards pending application 11/312,568 in order to determine whether there are double patenting issues regarding the present application and 11/312,568.

Claims 28-33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Kasahara et al. (U.S.P. 6,201,941). This rejection is respectfully traversed.

Initially, Applicants do not acquiesce to U.S. Patent No. 6,201,941 being considered prior art against the present application. However, to more efficiently advance the prosecution of this application, Applicants do not, at the present time, traverse as to whether U.S.P. 6,201,941 qualifies as prior art against the present application and reserve the right to traverse this position in the future.

The present invention, as set forth in the pending independent claims, requires the filter to be at the upper portion of the container body, when the mouth or second opening is at a lower portion of the container body. This allows for the toner within the container body to

be removed from the container body from the lower portion, as air injected into the container body can escape from the filter which is at the upper portion. The "upper portion," as recited in the amended claims, is not limited to just the top surface of the container body.

To the contrary, U.S. Patent No. 6,201,941 to Kasahara et al. shows in Figure 8A, for example, at the opening is at the top of the container 20, while the filter 54 is also at the top of the container, which is a structurally different structure from that claimed.

Accordingly the prior art rejection should be withdrawn.

The added dependent claims are patentable for at least the reasons the independent claims from which they depend are patentable.

Consequently, in light of the above discussion and in view of the present amendment, the present application is in condition for formal allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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